

MPBalekar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 16648 OF 2025

Chandrakant Shripat Tambokar ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Abhilesh Upadhyay a/w H. Pandey for the petitioner.

Mr. O.A. Chandurkar, Addl.G.P. a/w Smt. G.R. Raghuwanshi, AGP, for the State – Respondent Nos.1 & 2.

Ms. Sonali Kunekar for respondent No.3.

Mr. Nitin K. i/by Usha A. for respondent No.4.

Ms. Pragya a/w Shubham M. i/by M/s. Legal Vision for respondent No. 8A.

Mr. Kailash Pathak for respondent No.12.

CORAM : AMIT BORKAR, J.

DATED : MARCH 16, 2026

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The petitioner claims that he is the owner of the property which is presently the subject matter of proceedings pending before the Competent Authority under Section 11 of the Maharashtra Ownership Flats Act, 1963. According to the petitioner, those proceedings relate to the issue of deemed conveyance in favour of the respondent society. The petitioner has therefore approached this Court by filing the present writ petition. The grievance of the petitioner is that he had filed an application

before the Competent Authority seeking to be impleaded as an opponent in the said proceedings. The petitioner asserts that since he claims ownership rights in the property in question, any order passed in the proceedings under Section 11 is likely to directly affect his legal rights and interest in the property. However, the Competent Authority has rejected the application for impleadment. It is this order which is under challenge in the present writ petition.

3. A perusal of the impugned order shows that the Competent Authority has rejected the petitioner's application without assigning any reason. The order merely records the conclusion that the application for impleadment stands rejected. No discussion of the facts has been made. No examination of the legal position has been undertaken. The order does not indicate why the authority formed the opinion that the petitioner was not required to be heard in the proceedings. When an authority exercises statutory powers which have the effect of affecting civil rights of parties, it is expected that the authority should record reasons which disclose the basis of its decision. Reasons are necessary so that the parties understand why their request has been rejected. They also enable a superior court to examine whether the authority has exercised its jurisdiction properly. In the present case such reasoning is completely absent.

4. The respondent society has opposed the application for impleadment. According to the society, the original owners of the property had executed a development agreement in favour of a developer. On that basis it is argued that once such development

agreement was executed, the rights of the owners in the property stood exhausted for the purpose of the proceedings under Section 11 of the Act. The society therefore contends that the petitioner cannot claim to be a promoter within the meaning of Section 2(c) of the Maharashtra Ownership Flats Act. If the petitioner cannot be regarded as a promoter, then according to the society he is not a necessary or proper party in the proceedings for deemed conveyance. On this reasoning the society submitted before the Competent Authority that the application for impleadment was liable to be rejected.

5. This Court has examined the above contention in the light of the statutory provisions. Section 2(c) of the Maharashtra Ownership Flats Act defines the expression “promoter”. The definition is not narrow or restricted only to a builder who actually constructs the building. The definition is wider and includes a person who causes construction of a building to be made for the purpose of selling flats. Therefore, the law recognises that even a land owner who initiates or permits development of his property through another person may still fall within the expression “promoter”. In the present case the material placed on record shows that the owners had executed a development agreement in favour of a developer. However, there is no material to show that the owners have executed any registered sale deed transferring their right, title or interest in the land to any other person. Execution of a development agreement by itself does not divest the owner of ownership in the property. The land continues to belong to the owner unless there is a valid conveyance transferring title.

6. In these circumstances the owner continues to remain a person who has permitted and caused the construction to be undertaken through a developer. Such a person cannot be completely excluded from the proceedings relating to conveyance of the property. The proceedings under Section 11 ultimately result in transfer of title in favour of the society. Therefore the presence of the owner becomes relevant so that all persons having interest in the property are heard before any such order is passed. Once the definition contained in Section 2(c) is read in its proper scope, the petitioner cannot be treated as a stranger to the proceedings.

7. For these reasons, the Competent Authority ought to have examined the petitioner's request for impleadment with proper application of mind. Instead, the authority rejected the application without reasons and without considering the statutory definition of promoter. Such an order cannot be sustained.

8. Hence, the impugned order rejecting the petitioner's application for impleadment is quashed and set aside. The petitioner shall be impleaded as an opponent in the proceedings before the Competent Authority.

9. Rule is therefore made absolute in terms of prayer clause (a).

10. The writ petition stands disposed of.

(AMIT BORKAR, J.)